

SCS HCS HB 436 -- FIREARMS

This bill changes the laws regarding firearms.

SECOND AMENDMENT PRESERVATION ACT

The bill establishes the Second Amendment Preservation Act which specifies that although several states have granted supremacy to laws and treaties under the powers granted under the United States Constitution, the supremacy does not apply to federal laws that restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the state except to the extent that they are necessary for the regulation of the land and naval forces of the United States Armed Forces.

The bill specifies that all past, present, or future federal acts, laws, orders, rules, or regulations that infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution are invalid, will not be recognized, are specifically rejected, and will be considered null and void and of no effect in this state.

It is the duty of the courts and law enforcement agencies of the state to protect the rights of law-abiding citizens to keep and bear arms within the borders of the state, and no public officer or employee of the state has any authority to enforce or attempt to enforce any of the infringements on the right. Any official, agent, or employee of the federal government who enforces or attempts to enforce any of the infringements on the right is guilty of a class A misdemeanor.

Any state citizen who has been subject to an effort to enforce any of the infringements on the right to keep and bear arms under these provisions will have a private cause of action for declaratory judgment and for damages against any person or entity attempting the enforcement.

OPEN CARRY OF FIREARMS

In any jurisdiction that prohibits the open carry of a firearm by ordinance, the prohibition is lifted if the person has a valid concealed carry endorsement from this state or a permit from another state that is recognized by this state in his or her possession at all times, he or she displays the endorsement or permit upon the demand of a law enforcement officer, and the firearm being openly carried is 16 inches or less in overall length. In the absence of any reasonable and articulable suspicion

of criminal activity, a person carrying a concealed or unconcealed handgun cannot be disarmed or physically restrained by a law enforcement officer unless under arrest. Any concealed carry endorsement holder who violates these requirements may be issued a citation for an amount of up to \$35, but it will not be a criminal offense.

SCHOOL PROTECTION OFFICERS

Any school district may designate one or more elementary or secondary school teachers or administrators as a school protection officer, whose responsibilities and duties are voluntary and in addition to their normal responsibilities and duties. Any compensation for serving as a school protection officer must be funded by the local school district without using state funds.

The bill authorizes a school protection officer to carry concealed firearms in any school in the district, but he or she must keep the firearm on his or her person at all times while on school property. A person violating these provisions must be removed immediately from the classroom and is subject to employment termination proceedings.

A school protection officer may detain any person the officer sees violating or any person who the officer has reasonable grounds to believe has violated any state law or school policy. Any person detained for violation of a state law must, as soon as practically possible, be turned over to a law enforcement officer. Any person detained for a violation of a school policy must be turned over to a school administrator as soon as practically possible. However, a person cannot be detained for more than four hours.

The bill specifies the requirements to be designated as a school protection officer, including requesting the designation in writing to the school district superintendent, holding a valid concealed carry endorsement, and submitting a certificate of school protection officer training program completion from a program approved by the Director of the Department of Public Safety. Any school district that designates a teacher or administrator as a school protection officer must notify the department director in writing within 30 days that includes specified information.

A school district may revoke the designation of a person as a school protection officer for any reason. The district must immediately notify the person in writing and must notify the department director in writing within 30 days of the revocation.

The department director must maintain a listing of all persons designated as a school protection officer and make the list

available to all law enforcement agencies. However, any identifying information collected is not considered public information and is not subject to an information request under the Open Meetings and Records Law, commonly known as the Sunshine Law.

Any school employee who discloses any information to anyone, other than those authorized to receive it, will be guilty of a class B misdemeanor and will be subject to employment termination proceedings within the school district.

Currently, a person with a valid concealed carry endorsement cannot carry a concealed firearm in any higher education institution or elementary or secondary school facility without the consent of the governing body or a school official or the district school board. The bill exempts any teacher or administrator of an elementary or secondary school who has been designated by his or her school district as a school protection officer and is carrying a firearm in a school within that district from the requirement of obtaining consent.

The bill requires the Peace Officer Standards and Training Commission must establish minimum standards for the training of school protection officers, the minimum number of hours of training, and the curriculum for training programs and specifies the minimum training requirements. The commission must also establish minimum standards for school protection officer training instructors, training centers, and training programs. The director of the commission must develop and maintain a list of approved school protection officer training instructors, centers, and programs and make the list available to every school district in the state. The bill specifies the information that must be submitted by each person seeking entrance into a school protection officer training center or program. A certificate of school protection officer training program completion may be issued to any applicant by any approved instructor affirming that the person has taken and passed a program that meets all requirements specified in the bill and that the person has a valid concealed carry endorsement.

FIREARM OWNERSHIP INFORMATION

A person or entity cannot publish the name, address, or other identifying information of any individual who owns a firearm or who is an applicant for or holder of any license, certificate, permit, or endorsement that allows the person to own, acquire, possess, or carry a firearm. Any person or entity violating these provisions is guilty of a class A misdemeanor.

A licensed health care professional cannot be required by law to

inquire if a patient owns a firearm, document or maintain in a patient's medical records if the patient owns a firearm, or notify any governmental entity of the identity of a patient based solely on his or her status as a firearm owner. These provisions cannot be construed as prohibiting or restricting a health care professional from requesting or documenting the information if it is necessitated or medically indicated by the professional's scope of practice and it does not violate any other state or federal law.

CONCEALED CARRY ENDORSEMENTS

The bill changes the minimum age at which a person can be issued a concealed carry endorsement from 21 years of age to 19 years of age.

SURRENDER OF FIREARMS

No county, municipality, or other governmental body or an agent of the entity may participate in any program in which an individual is given a thing of value in exchange for surrendering a firearm to the entity unless it has adopted a resolution, ordinance, or rule authorizing the participation in the program and the resolution, ordinance, or rule provides that any firearm received must be offered for sale or trade to a licensed firearms dealer. The proceeds from any sale or gains from a trade must be the property of the entity unless the proceeds are collected by a sheriff, in which case the proceeds must be deposited in the county sheriff's revolving fund. Any firearm remaining in the possession of the entity after it has been offered for sale or trade to at least two licensed firearms dealers must be destroyed.